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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JIMMY M. STONE,

11 Plaintiff,

12 v.

13 MICHAEL J. ASTRUE, Commissioner of
14 Social Security Administration,

15 Defendant.

Case No. C08-5742RJB-JRC

ORDER ADOPTING REPORT
AND RECOMMENDATION

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17 This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge
18 J. Richard Creatura. Dkt. 19. The Court has reviewed the Report and Recommendation, objections, if
19 any, and the file.

20 On August 25, 2009, after hearing oral argument, the Magistrate Judge filed a Report and
21 Recommendation in this case, recommending that the Court affirm the administration's decision to deny
22 Plaintiff Social Security Disability benefits. Dkt. 19. The Report and Recommendation reviews the basic
23 factual history and it shall not be repeated here.

24 Plaintiff raises two objections to the Report and Recommendation. Dkt. 12. The first objection is
25 that the Magistrate Judge should have found that the administrative law judge ("ALJ") erred when she
26 found Plaintiff's "only severe impairment was bilateral hand pain, numbness and weakness, (Tr. 18), but
27 determined that he could not lift and carry 50 pounds occasionally and 25 pounds frequently, and did not
28 have fine or gross manipulative limitations." *Id.* The second objection is that the Magistrate Judge should

1 have found that the ALJ erred when she did not find that Plaintiff “had a severe mental impairment
2 contrary to the findings of Frank Siebel, Psy.D. and the record as a whole.” *Id.*

3 Plaintiff objections are a repeat of his earlier arguments and are reviewed in the Report and
4 Recommendation. A few additional points should be addressed here. First, as to Plaintiff’s claim that the
5 ALJ erred in assessing his hands’ limitations in the RFC, “[t]he mere existence of an impairment is
6 insufficient proof of a disability,” let alone a decreased ability to work. *Matthews v. Shalala*, 10 F.3d 678,
7 680 (9th Cir. 1993). The Magistrate Judge points out that the ALJ relied on the medical evidence in the
8 record to support her RFC findings. Dkt. 19, at 8-9. Plaintiff does not cite medical evidence in the record
9 which contradicts the ALJ’s assessment. Plaintiff points to medical reports which indicate that he has
10 snapping ulnar neuropathy, some bilateral wasting of the hands, decreased sensation, numbness, and
11 reduced muscle strength in the right hand flexors, (Dkt. 20), but makes no showing that this medical
12 evidence is a basis upon which to overturn the ALJ’s RFC findings. Moreover, the ALJ “need not discuss
13 all evidence presented” to him or her. *Vincent on Behalf of Vincent v. Heckler*, 739 F.3d 1393, 1394-95
14 (9th Cir. 1984) (*citation omitted*) (*emphasis in original*). The ALJ must only explain why “significant
15 probative evidence has been rejected.” *Id.*; *see also Cotter v. Harris*, 642 F.2d 700, 706-07 (3d Cir.
16 1981); *Garfield v. Schweiker*, 732 F.2d 605, 610 (7th Cir. 1984). The Report and Recommendation
17 indicates that the parties discussed the medical evidence that the ALJ failed to address at oral argument.
18 Dkt. 19. The Report and Recommendation states that the “evidence not commented upon or discussed by
19 the ALJ was not significantly probative.” Dkt. 19, at 7. Plaintiff does not make a showing to the contrary.

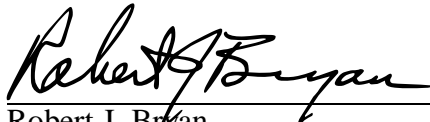
20 Plaintiff’s second objection is that the ALJ erred when she failed to find his mental impairment a
21 severe impairment at step two of the process. Dkt. 20. Plaintiff does not address the underlying finding of
22 both the ALJ and the Magistrate Judge - that his mental impairments are not severe when he is on
23 medication. Dkt. 19, at 6-7. It is of note that “[i]mpairments that can be controlled effectively with
24 medication are not disabling for the purpose of determining eligibility for SSI benefits.” *Warre v.*
25 *Commissioner of Social Sec. Admin.*, 439 F.3d 1001, 1006 (9th Cir. 2006). Plaintiff’s second objection is
26 unavailing.

27 Plaintiff’s objections do not provide a basis upon which to overturn the ALJ’s decision. The
28 Report and Recommendation (Dkt. 19) should be adopted and the ALJ’s decision affirmed.

1 Accordingly, the Court, having reviewed the Report and Recommendation and the remaining
2 record, hereby finds and **ORDERS**:

- 3 (1) The Magistrate Judge's Report and Recommendation (Dkt. 19) is **ADOPTED**;
4 (2) The ALJ's decision is **AFFIRMED**.
5 (3) The Clerk is directed to enter this Order and send copies to petitioner, any other party that
6 has appeared in this action, and the Hon. J. Richard Creatura.

7 DATED this 6th day of October, 2009.

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11 Robert J. Bryan
12 United States District Judge
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